

MEMORANDUM

Date: September 2, 2010

To: Water Right Permit File 37-7842

From: Jeff Peppersack

Re: IWRB Request for Extension of Time

On June 1, 2009 the IWRB filed a Request for Extension of Time on this permit. This request is still pending before the Department.

On December 1, 1993, the Department issued an order reinstating the lapsed permit based on a late submittal of beneficial use and exam. On June 13, 1999, the Department received a written agreement between the IWRB and the prior permit holder which assigned the permit to the IWRB with conditions. On March 21, 2000, the IWRB requested an extension of time for undeveloped portions of the permit and the Department approved the request on April 3, 2000. The IWRB submitted a second request for extension on April 26, 2004 which the Department approved on August 25, 2004.

On May 8, 2009, Joseph James submitted a letter to the Department on behalf of some Little Wood River and Malad River hydropower water right owners who were concerned that diversion of water for recharge under permit 37-7842 would cause them injury. In his letter, Mr. James indicates that his clients intend to protest any proposed diversion of water or further development of the permit. There were several reasons stated for the intended protest that generally questioned the prior reinstatement and/or extensions for additional development of the permit.

As indicated above, past orders and decisions of the Department reinstated the permit and provided extensions of time for additional development. Those past orders and decisions were not appealed by any party as provided under Section 42-1701A(3), Idaho Code. The pending extension request will be processed on the basis that the permit is a valid, active permit which can be extended pursuant to Section 42-204(4), Idaho Code.

Section 42-204(4) Idaho Code provides that the Department may extend the time for completion of works or application of water to full beneficial use for additional periods as necessary upon a showing that the time is required by reason of the status of plans, authorization, construction fund appropriations, construction, or any arrangements which are found to be requisite to completion of the construction of such works. The extension request submitted by the IWRB indicates that a diversion structure and recharge site are complete and aquifer recharge in the Wood Rivers system is planned as part of the ongoing ESPA-CAMP process. I discussed the IWRB's plans regarding this permit with Brian Patton who indicated that the IWRB will be reviewing additional recharge locations as part of that CAMP process.